# STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



**2006** 

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# **LEGEND:**

**BLACK:** Existing Language

**BLUE:** Proposed Language Change RED: Comments describing changes

#### **FOOTNOTE:**

In the event that any provision of this rule is contrary to the provisions of an applicable collective bargaining agreement, the pertinent provisions of the collective bargaining agreement shall apply.

COMMENT: Inserted this provision which states that a collective bargaining agreement takes precedence over the personnel rules.

# RULE 5 WORKING CONDITIONS

## 5.01 HOURS OF WORK

- 5.011 There are established the following basic workweeks:
  - 5.0111 Standard 35 hour workweek (five (5) days of seven (7) consecutive hours), exclusive of unpaid lunch periods;
  - 5.0112 Standard 40 hour workweek (five (5) days of eight (8) consecutive hours), exclusive of unpaid lunch periods;
  - 5.0113 A non-standard workweek (five (5) days of at least 35 hours per week) not eligible for overtime compensation, exclusive of unpaid lunch periods;
  - 5.0114 A non-standard/non-exempt workweek (an average of at least 35 hours per week) eligible for overtime compensation for all hours worked in excess of 40 hours, exclusive of unpaid lunch periods.

**COMMENT:** The non-standard/non-exempt workweek was added as well as additional commentary explaining the other workweeks.

- 5.012 It is recognized that there are now other work schedules peculiar to certain classes of positions and such exceptions shall remain in full force and effect.
- 5.013 Guided by the policy herein set forth, the Personnel Administrator shall make such recommendations to the Director of the Department of Administration as may be necessary to insure that each classified class of position(s) is assigned to a work schedule. The Director may either approve this plan as submitted or make changes therein. This plan and the established work schedule shall take effect upon order of the Director. When a new classification is approved by the Director and the Governor, the Director shall establish the work schedule for that classification. Upon recommendation of an Appointing Authority or the Personnel Administrator, the Director may transfer classes of positions or individual positions from one category to another.

**COMMENT:** Inserted "classified" and "of the Department of Administration".

## 5.014 (Relates to Unclassified Service)

Guided by the policy herein set forth, the Personnel Administrator shall make such recommendations to the Director of Department of Administration as may be necessary to insure that each unclassified class of positions is assigned to a work schedule. The Director may either approve this plan as submitted or make changes therein. This plan and the established work schedule shall take effect upon order of the Director. When a new classification is approved by the Director and the Governor, the Director shall establish the work schedule for that classification. Upon recommendation of an Appointing Authority or the Personnel Administrator, the Director may transfer classes of positions or individual positions from one category to another.

**COMMENT:** Accommodates change in statute abolishing the Unclassified Pay Plan Board (UPPB)

5.015 Employees who work at least twenty (20) hours a week shall be entitled to accrue sick leave and annual leave on a pro-rata basis.

# **NOTE:** Changed reference from sixteen (16) to twenty (20)

- 5.016 All employees shall be granted a meal period of not less than one-half hour duration nor more than one hour duration during each work day to be determined by the work day schedule that applies.
- 5.017 Employees shall be granted a fifteen (15) minute coffee break during the first half and second half of their work day.
- 5.018 Employees who are required to report for emergency work after having left their place of employment and outside their regularly scheduled work hours shall receive not less than four (4) hours pay at their overtime rate. If the employee has the option of reporting to work and (s)he is told ahead of time that the shift is less than four (4) hours, payment will be made only for hours actually worked.

**COMMENT: Replaced** "called in", **with** "required to report...." **Also**, additional verbiage added at end of paragraph to state that "If the employee has the option of reporting to work and (s)he is told that the shift is less than four (4) hours, payment will only be made for the hours actually worked."

## 5.02 <u>ATTENDANCE</u>

5.021 No employee shall be paid unless s(he) is at work, or in accordance with the conditions outlined in these rules, is authorized to be absent therefrom. Every employee shall notify his/her Appointing Authority, whenever possible, of his/her failure to report for work and the reason for such absence. Continued failure by an employee to conform with the requirements of attendance (such as unauthorized absence or chronic tardiness) may subject the employee to disciplinary action.

<u>COMMENT:</u> Removed "in the classified service", removed "shall be reported to the Personnel Administrator and shall be made part of the employee's service rating record" and also removed "may be subject to disciplinary action by the appointing authority" and replaced it with "may subject the employee to disciplinary action"

5.022 Each department or agency shall submit attendance reports, as specified by the Personnel Administrator in conjunction with the State Controller.

<u>COMMENT:</u> Removed "shall submit daily attendance records of classified employees and shall submit forms of attendance to the Personnel Administrator on the dates (s)he shall specify" and **replaced it with** "shall submit attendance reports as specified by the Personnel Administrator in conjunction with the State Controller."

5.023 Such reports of attendance shall not apply to employees whose positions are in the non-standard category. However, absences due to sick leave, annual leave, or other categories of paid and unpaid leave shall be reported in accordance with Rule 5.0619.

**COMMENT: Added** "or other categories of paid or unpaid leave" **as well as change** reference number

#### 5.03 OVERTIME

5.031 It is agreed that when it becomes necessary for the efficient conduct of the business of the State, an Appointing Authority may direct or authorize overtime work. Overtime work shall be defined as the required performance of work in excess of the established workweek. Only vacation leave, military leave, personal leave, bereavement leave, and jury duty count for overtime purposes.

**COMMENT: Eliminated** "Compensation for overtime work shall not be paid to employees in the non-standard category" and **placed it in** 5.032 (see below)

**Inserted** "Only vacation leave, military leave, personal leave, bereavement leave, and jury duty count for overtime purposes" **at the end of the section** 

- 5.0311 Time and one-half shall be paid in each of the following instances: All work performed in excess of forty (40) hours and, in those classes of positions in which it is applicable, all work performed in excess of thirty-five (35) hours in any week.
- 5.032 Compensation for overtime work shall not be paid to employees in the non-standard category. No compensation of any kind shall be paid to employees in the non-standard/non-exempt workweek category for additional hours worked beyond the 35<sup>th</sup> hour through the 40<sup>th</sup> hour.

**COMMENT:** This section (5.032) is new and added as a separate section (see 5.031) **Added** condition of "non-standard/non-exempt workweek".

#### 5.04 HOLIDAYS

5.041 The following shall constitute the official holidays for state employees:

\*New Year's Day (1st day, January)

Dr. Martin Luther King Jr.'s Birthday (3<sup>rd</sup> Monday, January)

Memorial Day (Last Monday, May)

\*Independence Day, (July 4<sup>th</sup>)

Victory Day (2<sup>nd</sup> Monday, August)

Labor Day (1<sup>st</sup> Monday, September)

Columbus Day (2<sup>nd</sup> Monday, October)

**Election Day (General Elections)** 

\*Veterans Day (November 11<sup>th)</sup>)

Thanksgiving Day (4th Thursday, November)

\*Christmas Day (December 25<sup>th</sup>)

Any day which the Governor shall appoint as a holiday.

Any day which shall hereafter be appointed by the general assembly to be a holiday.

\*Holidays celebrated on following Monday when the holiday specified falls on a

#### weekend.

**COMMENT:** Changed "Election Day (State Offices)" to "Election Day (General Elections)". Also, inserted "\*Holidays are celebrated on the following Monday when the holiday specified falls on a weekend."

- 5.042 Every employee shall be entitled to time off with pay for the official holidays specified above, when such holidays fall on his/her regularly scheduled work day(s) and shall be credited with the number of hours in his/her official work schedule for that day.
- 5.043 When a holiday falls on one of an employee's regularly scheduled days off, (s)he shall be credited with the number of hours for one day in his/her official work schedule. The hours so credited for this day shall not be used in the computation of overtime.
- 5.044 Whenever an employee is required to work on a holiday which falls on his/her regularly scheduled work day, (s)he shall be credited with the number of hours in his/her official work schedule for the day plus the number of hours actually worked. The hours actually worked shall be compensated at the rate of one and one-half times.

**COMMENT**: **Eliminated** 5.0441 which stated "When a non-standard employee is directed to work on a holiday (s)he shall be compensated for an additional seven (7) hours at his/her total hourly rate (see 5.046)

- 5.045 Whenever an employee is required to work on a holiday which falls on one of his/her scheduled days off, (s)he shall be credited with the number of hours for one day in his/her official work schedule plus the number of hours actually worked. The hours actually worked shall be compensated at the rate of one and one-half times.
- 5.046 When a non-standard or non-standard/non-exempt employee is directed to work on a holiday, (s)he shall be compensated for an additional seven (7) hours at his/her total hourly rate.

**COMMENT**: Replaced old 5.046 (see above) with new language and added old 5.046 as new section 5.047 (see below)

5.047 When a holiday falls on a regularly scheduled workday within an employee's vacation period, the employee shall not be charged annual leave for his/her absence on that date.

**COMMENT**: Was 5.046 (see above) added as 5.047

## 5.05 INCLEMENT WEATHER/EMERGENCY:

- 5.051 In the event that the Governor or the Governor's designee determines that an emergency situation exists and as a result makes a public declaration that an emergency exists and that state offices are closed, the following provisions shall apply:
  - 5.0511 The Director of the Department of Administration shall determine the designated starting time of the emergency;
  - 5.0512 Employees who are either allowed to leave their work place early or are excused from traveling to work shall be allowed to discharge vacation leave, personal leave, or sick leave at the employee's option. An employee who elects to discharge sick leave may discharge up to a maximum of two (2) sick days per calendar year for such events. Any request to discharge sick leave at such times must be considered in accordance with the pertinent provisions of applicable union contracts, rules, and state law.
  - 5.0513 Employees who are required to remain at their place of work or to travel to work shall be compensated at the rate of time and one half for each hour worked commencing at the designated starting time of the emergency as determined by the Department of Administration. In this event, this shall only apply to employees at the affected work place.

**COMMENT:** Removed previous section 5.051 which stated "Whenever it is desirable, in the best interest of the State and its employees to allow collective absence from duty, the Personnel Administrator may authorize Department Director(s) to excuse employees at a stated time, providing enough employees remain on duty to maintain contact with the public and carry on crucial work. Employees who are required to work when other employees are so excused shall be paid their regular rate of pay and in addition shall be granted cash payment for this service at the rate of one and one half times for time worked" and replaced it with the above "Inclement Weather/Emergency" section 5.051. Also, Replaced "or" condition with "and" condition.

5.052 In the event of an unusual condition at a particular location (e.g. extreme heat/inoperable air conditioning, extreme cold/inoperable heat, fire damage, flood damage) the problem and possible alternatives are to be discussed with the Director of the Department of Administration and/or the Personnel Administrator. Under no conditions are employees to be released from work without the express approval of the Director of the Department of Administration or his/her designee. This applies to, but is not limited to, early closings, late openings, or other shutdowns of agency operations. Leave options and/or compensation for employees at that specific location shall be determined by the Director of the Department of Administration depending upon the individual circumstances.

COMMENT: **Changed** 5.062833 bullet (only bullet not numbered in previous rules) which stated "To permit time off during extreme weather conditions or state of emergency as authorized by the Director of Administration" **to** the above language.

5.053 Under no conditions are employees to be released from work without the express approval of the Director of Administration. This includes early closings, late openings, or other shutdowns of agency operations.

**COMMENT:** New section

### 5.06 LEAVE REGULATIONS

5.061 Annual Leave

The employer has the right to schedule and approve all vacation requests.

**COMMENT:** Inserted "Right to approve all vacation requests" for clarification.

5.0611 Requirements

5.06111 Appointing Authorities shall require employees to plan their vacations ahead of time. Criteria for determining priorities in scheduling includes seniority, rank in the organization, and needs of the agency.

COMMENT: Changed "Department Agency heads" to "Appointing Authorities".

5.06112 Appointing Authorities shall assign vacation leave with justice and equity.

**COMMENT:** changed numbering scheme

5.06113 Absences with pay for illness; vacation; administrative; military or jury duty leaves do not affect vacation accrual. (See Rule 5.0614)

COMMENT: changed numbering scheme and inserted reference to Rule 5.0614

5.06114 Every employee shall be entitled to at least two successive weeks of vacation during each accrual year of service. Dependent on agency needs, the Appointing Authority may require employees to stagger vacations or split their leave periods.

**COMMENT:** changed numbering scheme

5.06115 Should a question arise between employees as to when vacation will be taken, managers shall attempt to resolve the matter between the parties. Absent resolution between the parties, preference will be given to the party who received first approval, then to state seniority.

**COMMENT:** changed numbering scheme. Also, added comment at the end of the section that states: "Absent resolution between the parties, preference will be given to the party who received first approval, then to state seniority."

5.0612 **DELETED** 

**COMMENT: Removed** "Unless modified by a union contract all full-time employees whether on a standard 35 or 40 hour workweek or a non-standard workweek and part-time employees who work at least 16 hours per week or whose schedule requires the performance of service to the state for some part of each working day of official work schedule to which the class is assigned, shall accrue as follows for each straight time hour of service:"

COMMENT: Removed references to employees hired prior to December 28, 1980 (Schedule A) or after December 28, 1980 (Schedule B) – Sections 5.06121 and 5.06122

5.0613 On and after the adoption of these rules, vacation credits shall be discharged: during the year accrued, except that:
5.06131 All employees, who accrue annual leave, shall be allowed to **carry**over from one calendar year to another not more than the amount of vacation time accrued and credited in two (2) calendar years unless otherwise modified by the Personnel Administrator or union contract.

COMMENT: Changed "one calendar year" reference to "two calendar years" reference

COMMENT: Removed Section 5.06132 and 5.06133 as they reference frozen balances as of December 31, 1951 and non-standard category on December 31, 1955

5.0614 ACCRUAL RATE CHART:

Employees shall accrue vacation leave according to the following schedule:

Years of		<u>Accrual</u>	<u>Up Front</u>	Days Subject	Total Potential
<u>Service</u>		<u>Rate</u>	<u>Days</u>	To Accrual	<u>Vacation Days</u>
0-05		.0308	2	8	10
5-10	(completed 5 years)	.0500	2	13	15
10-15	(completed 10 years)	.0538	4	14	18
15-20	(completed 15 years)	.0615	4	16	20
20-25	(completed 20 years)	.0654	9	17	26
Over 25	(completed 25 years)	.0731	9	19	28

<b>Total Hours Accrued Per Year</b>							
Accrual	35 Hrs.	37 ½ Hrs.	<u>40 Hrs.</u>				
Rate							
.0308	70.0	75.0	80.0				
.0500	105.0	112.5	120.0				
.0538	126.0	135.0	144.0				
.0615	140.0	150.0	160.0				
.0654	182.0	195.0	208.0				
.0731	196.0	210.0	224.0				

The end of the calendar year shall be considered the last day of the last bi-weekly pay period in the year for purposes of leave accrual. Employees who have accrued more than the maximum vacation carryover must use any amount over that maximum by the last day of the last pay period of the accrual year. Any amount of accrued vacation that exceeds the maximum amount of carryover not used by the employee by the last day of the last pay period shall be lost.

**COMMENT:** Changed numbering scheme, made minor modifications to chart, and added language "for purposes of leave accrual". Also, added "Employees who have accrued more than the maximum vacation carryover must use any amount over that maximum by the last day of the last pay period of the accrual year. Any amount of accrued vacation that exceeds the maximum amount of carryover not used by the employee by the last day of the last pay period shall be lost".

5.0615 When the services of an employee shall be terminated by resignation, death, dismissal or otherwise, if such employee shall not have discharged vacation time equal to his/her outstanding vacation credits, such employee or his/her estate shall on such termination be entitled to receive full pay for each hour of vacation leave to his/her credit as of the date of termination. However, other than for normal vacation leave that is discharged, no financial compensation shall be paid for vacation leave that had been accrued but not discharged from the second year accrual bank (Category "P"). For purposes of illustration, a description of the "Accrual Rate Chart" is presented below:

						7		
		Vacation	Vacation	Sick Leave				
		Current	Frozen					
	P2					1		
	Р							
	С					•		
						•		
Vacation (Curren	t)	This refers to	all vacation c	redits carried	over (except fr	ozen) which yo	ou may discha	
					1			
Vacation (Frozen)	+	This is the re	This is the remainder of your vacation credits automatically carried forward until exhausted.					
Tuounon (1102011)		11110 10 1110 1	I	l vacation or		I	T T T T T T T T T T T T T T T T T T T	
		Vesetien I	aava Dafin	:4:				
			eave Defin			<u> </u>	L	_
	P2		the vacatior	n leave bala	inces to em	ployee's cre	edit at the b	e
		year.						
	Р		balance of v					
		carryover a	and will be d	lischarged i	n the currer	nt year if the	ere is a bala	ı
		(There are	<b>NO FINAN</b>	CIAL PAY	<b>DUTS</b> from	P)		
	С	This is the	balance of v	vacation lea	ve accrued	and discha	rged during	
			ing up front					
			egin to disc					

**COMMENT: Chart added** as well as **language that states** specifically that "no financial compensation shall be paid for vacation leave that had been accrued but not discharged from the second year accrual bank (Category 'P')."

5.0616 The Appointing Authority may in any year assign to any employee sufficient vacation time, in excess of actual accrual credits, to permit the employee to receive the maximum number of days to which (s)he is entitled in the accrual year, which excess shall be deducted from vacation leave subsequently earned during that year.

**COMMENT:** Language changed from: "which excess shall be deducted from subsequent earned vacation leave" to "which excess shall be deducted from vacation leave subsequently earned during that year."

5.0617 An employee, who is transferred or otherwise changes positions in the classified service, shall have his/her sick and vacation leave credits carried over from one position to the other. An employee, who moves from the classified to the unclassified service or vice versa, shall retain all sick and vacation leave balances to his/her credit at the time of such personnel action. An employee who moves from the classified or the unclassified service to the nonclassified service or vice versa shall retain all sick and vacation leave balances to his/her credit at the time of such personnel action.

# **COMMENT:** Changed "of such removal" to "of such personnel action"

5.0618 Vacation leave credits shall not accrue while an employee is on leave without pay or absent without permission. Employees who terminate from state service in good standing shall receive vacation leave credit through the last complete day of service.

5.0619 Appointing Authorities shall report to the Personnel Administrator, on forms provided for this purpose, a record of vacation leave approved by them for employees who accrue.

**COMMENT:** "vacation leaves" **changed to** "vacation leave"

5.06191 Records of the Office of Personnel Administration shall be the official state record of vacation leave accruals and discharges.

**COMMENT**: **First part of this section that stated that** "Reports of frozen vacation leave of non-standard employees as of December 31, 1955, shall also be made" **has been deleted.** 

5.06192 Employees who are entitled to discharge accrued vacation leave may discharge in one week no more than the number of hours assigned to their class of position.

5.062 Sick Leave

5.0621 Sick leave with pay shall be granted to all employees who hold full-time positions of 35-hours or more per week or who hold part-time positions of at least twenty (20) hours per week. Failure on the part of an employee to notify his/her Appointing Authority promptly of his/her absence due to sickness may be cause for denial of sick leave.

**COMMENT:** References to "classified and unclassified employees" has been changed to "all employees who hold full-time positions of 35-hours or more per week"

Also, **deleted reference to** "the work schedules of which require performance of services to the state for some part of each working day in the work schedule to which the class is assigned"

NOTE: Changed 16 hours to 20 hours.

Unless modified by a union contract, all full-time employees whether on a standard 35 or 40-hour work week, on a non-standard workweek, or a non-stand/non-exempt workweek and all part-time employees who work at least twenty (20) hours per week shall accrue .0577 hours for each hour of service during a biweekly pay period, up to a maximum of the assigned hours in the workweek for the position in which the employee is working.

**COMMENT:** Deleted the word "particular" in reference to "union contract". Deleted "the work schedules of which require performance of services to the state for some part of each working day in the work schedule to which the class is assigned" Also, inserted "non-standard/non-exempt workweek"

NOTE: Changed 16 hours to 20 hours.

5.06221When an employee's total accumulation of sick leave hours shall equal the equivalent of 125 days (a day meaning the number of hours in an employee's regular work day) no further credit shall accrue until the total shall have been reduced to less than this maximum.

Sick leave is hereby defined to mean a necessary absence from duty due to illness, injury, or exposure to contagious disease and may include absence due to illness or death in the immediate family of the employee or necessary attendance upon a member of the immediate family who is ill. The term "immediate family" also includes domestic partners of the same or opposite sex who have lived in the same household for at least six (6) months as defined in RIGL Section §36-12-1(3). (Sick leave with pay for the purpose of such attendance is to be used only in emergency and is limited to ten (10) working days within any calendar year.) Sick leave with pay may also be granted from accrued sick leave credits, when absence is medically necessary during normal pregnancy or the conditions of childbirth. Under the terms of the Family Medical Leave Act (FMLA), "leave without pay" is available under circumstances set forth in that Act.

**COMMENT:** Inserted "The term "immediate family" also includes domestic partners of the same or opposite sex who have lived in the same household for at least six (6) months as defined in RIGL Section §36-12-1(3). Also, inserted "medically necessary" rather than just "necessary". Deleted "The appointing authority may require a physician's certificate or other satisfactory evidence for each sick leave with pay covering an absence of more that three consecutive days. The foregoing rule regarding the use of sick leave may be modified by a particular union contract" and added "Under the terms of the Family Medical Leave Act (FMLA), "leave without pay" is available under circumstances set forth in that act."

5.06231 For any absence of more than three (3) consecutive working days, the Appointing Authority shall require a physician's certificate or other satisfactory evidence for each day of sick leave with pay.

**COMMENT:** New section – Section 5.06231 addresses the fact that "the appointing authority shall require a physician's certificate or other..."

5.06232 For absence of less than three (3) consecutive working days, the Appointing Authority may require a physician's certificate or other satisfactory evidence for each day of sick leave with pay.

**COMMENT:** New section -- Section 5.06232 addresses the fact the "appointing authority <u>may</u> require a physician's certificate or other..."

5.0624 DELETED

**COMMENT:** This section was formerly numbered **5.06231.** Changed to **5.0624** and DELETED.

5.0625 Sick leave credits shall not accrue while an employee is on leave without pay or absent without permission. Employees, who are authorized to discharge accrued sick leave, may discharge such leave on any regularly assigned work day, up to a maximum of the assigned hours in their workweek. Sick leave with pay may be granted in advance of accrual, but not in excess of 80 hours (80 hours for 40 hrs/week employee), when approved by the Appointing Authority. Sick leave with pay in an amount over 80 hours (70 hours for 35 hrs/week employee) may be loaned to an employee in advance of accrual upon request of the Appointing Authority, approval of the Personnel Administrator and notice to the State Controller, provided that all sick and annual leave credits have been exhausted and the employee agrees that future accruals of sick leave shall be applied against such advance until the loan is repaid. Upon termination of an employee's service, any such advance of sick leave not offset by subsequent accumulations of sick leave shall be deducted from any balance of vacation credits due him/her. In unusual instances, exceptions to or modification of this rule may be made upon written request by the Appointing Authority and approval of the Personnel Administrator. Such request shall include a full explanation of the circumstances upon which the request is based.

**COMMENT:** Added "(80 hours for 40 hrs/week employee)" and "(70 hours for 35 hrs/week employee)."

When the service of an employee shall be terminated by retirement (mandatory, voluntary or involuntary), or death, such employee or his/her estate shall be entitled to receive pay for each hour of accrued sick leave to his/her credit as of the date of termination according to the following formula:

**COMMENT: Replaced** "full pay" with "receive pay"

5.06261 A Standard 35 hour workweek employee, a non-standard workweek employee, and a non-standard/non-exempt workweek employee shall be entitled to receive full pay for 50% of all accrued sick leave over 390 hours up to and including 630 hours and full pay for 75% of all accrued hours over 630 hours up to and including 875 hours.

**COMMENT:** changed section number (replaced "35 hour a week" with "Standard 35 hour workweek." Also, inserted the word "workweek" before "employee" and added "and a non-standard/non-exempt workweek employee."

5.06262 A standard 40 hour workweek employee shall be entitled to receive full pay for 50% of all accrued sick leave over 468 hours up to and including 720 hours and full pay for 75% of all accrued hours over 720 and up to and including 1000 hours.

COMMENT: changed section number (replaced "40hour a week" with "standard 40 hour workweek")

5.06263 Eligible part-time employees shall be entitled to receive pay for accrued sick leave on a pro-rata basis depending upon the scheduled workweek within the basic workweek for the class of position

**COMMENT:** Changed section number

5.0627 Special Sick Leave

5.06271 Whenever a classified or unclassified employee shall be absent from his/her duties and is awaiting workers' compensation benefits, he or she shall be granted sick leave in an amount not to exceed his or her regular compensation.

COMMENT: **Changed** "receiving compensation" **to** "awaiting workers' compensation benefits". Also, **Removed** "Deductions from accumulated credits shall be applied only to that part of his/her salary which is paid as an addition to Workers' Compensation payments, an the total of the two shall not exceed the regular salary for a given period. Annual Leave credits may be applied in the same manner. When such absence shall not be covered by sick leave or annual leave, it shall be deemed to be leave without pay."

5.06272 Whenever a classified or unclassified employee shall be absent from his or her duties and is receiving compensation as provided in the workers' compensation laws, he or she shall be granted sick leave so that the total of his or her compensation as provided in the workers' compensation laws and his or her deductions from sick leave shall not exceed eighty three and three tenths percent (83.3%) of his/her regular compensation. Deductions from accumulated credits shall be applied only to that part of his or her salary which is paid as an addition to workers' compensation payments. Annual leave credits may be applied in the same manner. When such absence shall not be covered by sick leave or annual leave, it shall be deemed to be leave without pay. (See RIGL § 36-4-64)

**COMMENT:** Changed paragraph from "Any classified employee whose employment requires exposure to X-Rays or other unusual employment hazard may be granted special sick leave credits not to exceed 120 hours in a calendar year if (s)he may be granted sick leave. . permit recuperation from exposure to such occupational hazards" to the above reference.

## 5.0628 Non-chargeable Absences

5.06281 Bereavement Leave (This rule applies unless modified by a collective bargaining agreement).

In the event of death in an employee's family, the employee shall be entitled to absence with full pay "per death" not chargeable to the employee's sick leave accumulation for:

- Four (4) days in the case of the death of a spouse (including domestic partner), child (including foster child or stepchild who resides with the employee), mother, father, brother, or sister;
- Three (3) days in the case of death of a mother-in-law, father-in-law, grandmother, grandfather, grandchild or any other relative living in the employee's household;
- One (1) day in the case of death of an aunt, uncle, sister-in-law, or brother-in-law.

If more than the above days of Bereavement Leave are needed, such additional time must be charged to vacation leave or personal leave. Sick Leave requests must be in accordance with the provisions of Personnel Rule 5.062 entitled Sick Leave.

**COMMENT:** Changed section number. Added "(This rule is in effect unless modified by a collective bargaining agreement)". Also, changed "three (3) days" to the above stated number of days depending on relationship.

#### 5.06282 Personal Leave

Each employee shall be entitled to four days of leave with pay for personal business and/or religious observance in every calendar year. Employees shall not be required to state the reason for personal leave but they must obtain prior approval. Approval may only be denied if it interferes with the proper conduct of agency operations. Personal leave shall not be carried over from one year to the next, nor shall an employee be compensated for unexpended time upon termination. Employees who are hired during the leave year will have their personal days pro-rated on the basis of one day for each three months or part thereof of service during the year.

**COMMENT:** Removed reference to "fiscal year" and "depending on union contract". Also **eliminated** "Employees who do not use their personal leave or if it is denied on Good Friday, the day before Christmas day and/or the day before New Year's day may use this leave at some other time during the year." Also **eliminated verbiage** that stated "Nonchargeable absences may be qualified by a union contract"

#### 5.06283 Administrative Leave

#### 5.062831 Authorization:

5.0628311The Director of Administration, upon direction from the Governor or upon recommendation of the Personnel Administrator, may authorize Administrative Leave under circumstances such as those described in Rule 5.062833.

**COMMENT: Reversed these two sections** and changed numbering scheme. Also, changed extenuating circumstances to "circumstances as described in Rule 5.062833"

5.0628312 The Personnel Administrator may authorize an Appointing Authority to grant Administrative Leave with pay for necessary absence from duty not otherwise provided for under "Leaves" in statutes and rules.

COMMENT: Reversed this section with the previous one and changed numbering scheme 5.062832 Administrative Leave with Pay may be authorized for the following reasons:

COMMENT: Title added for this section

5.0628321 conduct of employees (See Rule 5.062834);

COMMENT: changed section number and reference

5.0628322 to take civil service examinations administered by the Office of Personnel Administration:

COMMENT: changed section number

5.0628323 to be interviewed for another position within state service;

COMMENT: changed section number

5.0628324 to attend professional conferences, training sessions, officially sanctioned outings or work related business provided that in the opinion of the Appointing Authority it promotes the career interest of the employee in relation to state business and that the staffing requirements are adequately. maintained during said period. Further, the Appointing Authority should be guided by union contracts, the principles of affirmative action and employee wellness in making decisions regarding administrative leave

COMMENT: changed section number

5.0628325 to take a physical examination required for appointment to state. service, or physical exams related to work injury in state service

COMMENT: changed section number

5.062833 changed to 5.052

COMMENT: **Deleted** bullet point which addressed "time off during extreme weather conditions or state of emergency..." **and created new section 5.052** which addresses "unusual condition at a particular location"

5.062834 Administrative Leave (with or without Pay)

COMMENT: new section

5.0628341 Administrative Leave With Pay

One category of Administrative Leave is absence from duty with pay necessitated by internal investigations and/or hearings as to: alleged charges of malfeasance or misfeasance or dereliction of

duty by a state employee; conduct or activity which would interfere with an employee's ability to perform his/her duties; or conduct which would embarrass or bring discredit to either the employee or the State. (see also Rules 5.06283 and 6.02)

COMMENT: new section

5.0628342 Authorization for Leave with Pay

5.06823421 Approval for 10 Working Days

Whenever it appears to be in the best interest of the State, an Appointing Authority may, with the approval in advance by the Personnel Administrator, place an employee on paid Administrative Leave for a period of not more than one pay period (10 working days) in a calendar year.

The use of Administrative Leave as defined within is not deemed to be mandatory by an Appointing Authority and does not preclude the immediate application of the provisions of Rule 5.066 (Leave Without Pay) in such cases as it shall appear to be in the best interest of the State.

**COMMENT:** new section

5.06283422 Extension(s) beyond 10 Working Days:

Upon the recommendation of the Personnel Administrator, the period of Administrative Leave may be extended beyond any leave already granted if it is in the best interest of the State to grant such extension.

COMMENT: new section

5.0628343 **Expiration of Administrative Leave** 

> Upon the expiration of said Administrative Leave, an employee must be returned to duty or placed on leave without pay, pending a final resolution of the case in question.

COMMENT: new section

5.063 Military Leave (This section may be modified by Union contract

5.0631 Every employee holding a position in the classified or unclassified service with the State shall qualify for a military leave of absence.

COMMENT: Changed preceding section that addressed both military leave eligibility and military pay and separated it into two separate sections 5.0631 and 5.0632

5.0632 Payment of Benefits

> Every employee who has held a position in the classified and/or unclassified service for 180 or more calendar days within the 12 months next preceding, who

has left or shall leave said position by reason of entering the armed forces of the United States (whether through membership in the Reserve of the United States Military or Naval Forces or the Rhode Island National Guard or Naval Reserve, when any of the foregoing units are called to active federal duty, or by reason of enlistment, induction, commission or otherwise) is hereby granted sixty (60) calendar days separation pay commencing with the time of leaving said position.

COMMENT: Changed "For the first 60 calendar days of such absence, every such employee shall be paid by the state the same amount as (s)he would have received had (s)he not been absent from his/her position" **with** the above language to ensure that an individual must meet the one hundred and eighty day requirement to be eligible for the 60 day pay requirement, but does not need to meet the one hundred and eighty day requirement for leave eligibility.

- 5.0633 During that part of the period of leave described above for which the employee shall receive his/her salary (s)he shall also accrue such sick leave and annual leave credits as (s)he would have accrued while working in said position during such period of 60 days.
- 5.0634 Employees on military leave shall be granted yearly salary increases and longevity increases when due in accordance with the conditions of eligibility outlined in these regulations.
- 5.0635 At the conclusion of such military leave of absence, the employee shall be returned to his/her position subject, however, to any law or rule which may hereafter be enacted affecting such right of return or defining the conditions under which such returns may be made. At the conclusion of each calendar year during such absence, annual leave and sick leave accumulations shall be carried over to the credit of the employee.

#### 5.0636 Pay Differential for State Employees

- 5.06361As required by RIGL Section 30-6-5, employees of a state agency who are eligible as defined within may qualify for a military pay differential, hereafter also referred to as a "differential". Such differential shall consist of the difference between the base pay for state employment that the state employee would have received if not on active military duty and the military pay that the employee on active military duty did receive, for the same time period. The differential does not include the payment of overtime in state employment.
- 5.06362 In order to be eligible for a military pay differential, a recipient must be a member of the National Guard or a Reserve component of the United States Armed Forces who is currently mobilized in support of a Presidential reserve call-up for active military duty, who at the time of being called for active military duty was an employee of a state department who otherwise qualifies for a military pay differential, as described above.

- 5.06363 The state department where the state employee worked when called to active duty shall periodically pay every employee who qualifies for a military pay differential. Such stipends shall be terminated upon the employee's return from active duty or after the employee has received the differential for one year, whichever comes first.
- 5.06364 To the extent that compensation for being called to active military duty is not already included in existing collective bargaining agreements, eligible employees of a state agency will qualify for the military pay differential, as defined above. When a collective bargaining agreement provides equal or greater benefits, the terms of the collective bargaining agreement shall control for as long as those benefits under the contract are applicable. Thereafter, those union employees shall be granted the difference in pay as described above.

COMMENT: Added section 5.0636 to address new statute RIGL 30-6-5

## 5.064 Military Training Leave

- 5.0641 Employees in the classified and unclassified service who by reason of membership in the United States Military, Naval, or Air Reserve or the Rhode Island National Guard or Naval Reserve, are required by the appropriate authorities to participate in training activities or in active duty as a part of the State military force or special duty as a part of the federal military force, shall be granted military training leave with pay not to exceed fifteen working days in any one federal fiscal year beginning October 1 through September 30. Should the employee be required to participate in such training activities for a period greater than fifteen working days, (s)he shall be granted leave without pay for this purpose.
- 5.06411 During the period of military training leave with pay, the employee shall accrue sick and vacation leave credits.
- 5.06412 Such training activities as defined in this section shall not include weekly drill nights or similar drill periods lasting less than one day or training periods voluntarily engaged in by the employee beyond the training period required generally of the members of the respective armed service.

COMMENT: Removed "(Relates to Classified and Unclassified Service)" in heading.

# 5.065 Jury Leave

5.0651 Every employee occupying a position in the state classified and unclassified service who is ordered by appropriate authority to report for jury duty shall be granted a leave of absence from his/her regular duties during the actual period of such jury duty and shall receive for such period of jury duty his/her regular pay or his/her jury duty pay whichever is greater.

5.066 Leave Without Pay

5.0661 An employee may be placed on leave without pay for a period not to exceed one year when:

**COMMENT**: numbering scheme changed and changed "A classified employee" to "An employee".

5.06611 The employee shall sign a request for such leave; the Appointing Authority shall recommend approval in writing to the Personnel Administrator, and the Personnel Administrator shall approve; or,

**COMMENT:** numbering scheme changed

5.06612 The Appointing Authority shall recommend such leave, in writing to the Personnel Administrator together with reason(s) for such proposed action, and the Personnel Administrator shall approve; or,

**COMMENT**: numbering scheme changed

5.06613 A classified employee with permanent, provisional or probationary status who is appointed to a higher class of position for which no valid list exists or that is categorized as non-competitive shall request a leave in order to protect his/her status in the lower class. The Appointing Authority shall recommend, in writing, whether or not to approve. Extensions of such leaves to protect status shall be granted until such time as a valid list is established for the class of position. Upon establishment of a valid list, the employee must either qualify for permanent appointment in the class or return to the position from which the leave was granted. Every such employee is entitled to only one leave at any given period.

**COMMENT:** Changed "An employee" to "A classified employee". Replaced "The Appointing Authority shall recommend approval" .. to language above". Also, included last sentence which states "Every such employee is entitled to only one leave at any given period.

5.06614 The employee shall sign a request for parental leave. Said leave shall be available to all employees for the purpose of child raising upon written notice at least two (2) weeks in advance of the commencement of the leave period. Said leave shall be granted for a period of up to six (6) months and may be renewed for a period not to exceed six (6) months upon request of the employee at least (30) days prior to expiration. In no event shall parental leave exceed a period of one (1) year or be applicable to children over the age of eighteen (18) years excepting under extenuating circumstances. Provided however the Personnel Administrator shall have the discretion to grant parental leave under extenuating circumstances. The employee on parental leave shall be covered by the health benefits carried by the State of Rhode Island for a period not to exceed one (1) year.

In all cases, leave shall be available only to the parents of eligible children and in cases where both parents are state employees, only one parent may request parental leave.

# **COMMENT:** changed section number

5.06615 State employees will not be granted a leave to accept employment outside of state service.

# **COMMENT: changed** section number

- 5.0662 Upon the expiration of such leave of absence, the employee shall be returned to the position which (s)he occupied at the time the leave became effective, subject to the law and rules. Failure of an employee to report for duty promptly at the expiration of such leave shall be just cause for dismissal. The Personnel Administrator may approve extensions of leave without pay for the same individual, upon request by the Appointing Authority.
- 5.0663 When an employee serving a probationary period shall be granted leave without pay from the class to which his/her position is allocated, the probationary period shall be suspended until the employee is returned to the class. When the employee is returned to the class, the probationary period shall be reinstated and continue as though no interruption had occurred.

# **COMMENT:** Changed "his" to "his/her"

After an employee returns to his/her position after having been absent from his/her position on official "leave without pay", the Appointing Authority may recommend salary or longevity increases which would place the employee in the position in the pay plan range to which (s)he might have been entitled if (s)he had not been absent from his/her position. If such leave is for a period of more than six (6) months, the reason for such a request must be explained in detail and approval of such request must be obtained from the Personnel Administrator and the Director.

**COMMENT:** Removed "with the exception of leave without pay to accept another position outside the state service".

5.0665 Whenever the presence, as a witness, of a classified or unclassified employee at a hearing of the Personnel Appeal Board, is requested by said Board from the appropriate Appointing Authority, said employee shall be excused from regular duties for the purpose of such attendance and shall not be required to discharge leave for such attendance.

COMMENT: Inserted "as a witness" after the word "presence". Replaced "shall not suffer any loss of salary for such attendance" to "shall not be required to discharge leave for such attendance".

# 5.067 Municipal Vacation Leave

A qualifying state employee in the classified service or unclassified service, who was either employed by or who held elected office in a municipality of the State of Rhode Island, shall not have municipal service time credited for the purpose of calculating accrued vacation leave credits. State employees in the classified or the unclassified service, who had either been employed by a State of Rhode Island municipality or who had held elective office in a State of Rhode Island municipality, and who now are accruing vacation leave credits as a state employee, shall receive credit for their municipal service time, but only for the purpose of calculating the twenty (20) years necessary to receive the additional five (5) days of vacation leave allowable pursuant to RIGL § 36-6-18 (b) and/or (c).

The five (5) days of vacation leave granted pursuant to RIGL § 36-6-18 (b) and/or (c), for prior municipal service time or service as an elected official with a State of Rhode Island municipality shall be credited on a prospective basis the first pay period following formal application by the employee. There shall be no retroactive credit or compensation of any kind.

In no case shall any employee receive more than twenty-eight (28) vacation leave days in any calendar year.

For example, an employee appointed on January 1, 2005 accrues ten (10) days vacation leave as a new state employee for calendar year 2005. On January 1, 2006, this same employee makes formal application and is officially approved for credit for nineteen (19) years of prior municipal service time. Such employee continues to accrue a maximum of ten (10) vacation leave days during the course of the calendar year 2006 as a result of his/her status as a state employee. Additionally, because such employee is officially approved for credit for nineteen (19) years of municipal service time coupled with one (1) year of state service, (s)he achieves the required twenty (20) year benchmark required under RIGL § 36-6-8. Therefore, such employee is entitled to receive credit for five (5) additional vacation leave days for a total of fifteen (15) vacation leave days for calendar year 2006.

**COMMENT:** New section to address Municipal Government Employment Credits toward vacation. Clarifies RIGL § 36-6-18 in affording credit for five (5) vacation days.

#### 5.07 BENEFITS

Health Benefits. All management and non-union employees, who are involuntarily laid off will be covered by the health benefits offered by the State of Rhode Island for the period of ninety (90) days. This Rule does not apply to those individuals terminated from state service at the conclusion of the term of the General Officers. These individuals may apply for health care benefits under the COBRA program.

**COMMENT:** Changed "people" to "employees". Changed "carried" to "offered". Also added language which stated "This Rule does not apply to those individuals terminated from state service at the conclusion of the term of the General Officers. These individuals may apply for health care benefits under the COBRA program."

5.072 Employee Health Care Cost Share

The Director of Administration may require employees to contribute to cost share toward the cost of medical, dental, and vision plan coverage when it is determined to be in the best interest of the State. The Director of Administration shall determine on a periodic basis the amount and method of contribution to be paid.

**COMMENT: New Section** to address "Health Care Cost Share"

## 5.08 LAYOFFS

An Appointing Authority, with the approval of the Director of Administration, may initiate layoffs in the classified service for those classes of positions, under his/her jurisdiction, provided prior approval has been received from the Personnel Administrator.

**COMMENT: Replaced** "Layoffs are restricted to the department in which the position is established. An Appointing Authority may initiate layoffs in those classes of positions, regardless of the status of the class, under his/her jurisdiction, provided prior approval has been received from the Personnel Administrator" **with** the first paragraph..

In all cases of layoff, first consideration will be given to employee status and length of service within his/her present classification.

If an employee is laid off, (s)he may replace an employee in a classification within the Appointing Authority's jurisdiction and in which the laid off employee has had prior service. However, the laid off employee must have equal or greater employee status and state seniority than the least senior incumbent."

**COMMENT: Replaced** "If employee is unable to retain the current classification, with "If employee is laid off".

**Inserted** "within the Appointing Authority's jurisdiction and in which". **Replaced** "if the employee exceeds the eligibility requirements of employee status and service of the least senior incumbent in the class" **with** "However, the laid off employee must have equal or greater employee status and state seniority than the least senior incumbent."

Employees who are to be laid off shall be notified in writing prior to the date of the layoff.

At the time of layoff, annual leave balances will be paid off. Sick Leave balances will be held until the employee is called back to work providing it is within thirty six (36) months of the layoff.

**COMMENT: Replaced** "termination date" with "date of the layoff". "Also, replaced "within twelve months" with "within thirty six (36) months". Also, **Deleted** "This rule applies unless modified by a particular union contract"

5.09 LONGEVITY INCREASES

COMMENT: Was Rule 4.06 changed to Rule 5.09

Longevity is defined as total length of service with the State of Rhode Island not necessarily continuous. In computing length of service for longevity purposes all full-time and part-time employment is to be counted. Emergency appointments are to be counted. State Representatives and Senators will be given two years credit for each full term served and pages, doorkeepers and clerks of legislative committees will be given 60 calendar days credit for each year served. Members of boards and commissions who are paid on a daily rate, individuals on a monthly payroll, or students in assistance programs at the state colleges receive no credit toward longevity.

COMMENT: Was Rule 4.061 changed to Rule 5.091

**Removed** "and work performed by an individual under contract" **after** "Emergency appointments are to be counted".

5.092 Each member shall be granted longevity increases according to the following formula unless modified by a particular union contract

YEARS OF SERVICE	PERCENTAGE INCREASE
	ON GROSS RATE
5	5%
11	10%
15	15%
20	17.5%
25	20%

COMMENT: Was Rule 4.062 changed to Rule 5.092 Changed "7" years of service to "5" years of service

5.0921 For the purposes of **Rule 5.092**, gross rate is the base rate as it appears in the pay grade plus shift differential, charge duty and incentive awards.

**COMMENT:** Was Rule 4.0621 changed to Rule 5.0921 Inserted, "For the purposes of Rule 5.092"

5.0922 Longevity increases shall receive the approval of the Personnel Administrator as to eligibility under the Personnel Rules.

**COMMENT:** Was Rule 4.0622 Changed to Rule 5.0922

5.0923 Changes in Positions - Effect on Longevity Percentage (%) Increases

Whenever an employee is receiving a longevity increase(s) and thereafter is promoted, demoted, reclassified or otherwise lawfully established in a different

class of position, this change shall in no way affect the longevity **percentage** (%) increase which said employee is currently enjoying.

**COMMENT:** Was Rule 4.0623 Changed to Rule 5.0923 Inserted the words "Percentage (%)"

# 5.0924 Salary Range Changes

Whenever a class of position is advanced from one range to another, the salary of each employee in the classification affected shall be advanced to the corresponding step in the new pay range. This action shall be called a pay plan adjustment. For the purposes of this section, it shall not be deemed to be a salary increase.

Employees enjoying the benefits of a longevity increase or increases on the effective date of any pay plan adjustment shall continue to have the benefit of their longevity increase(s) recalculated on the new base rate for the classification. Eligibility for future longevity increase(s) shall not be impaired.

**COMMENT:** Was Rule 4.0624 Changed to Rule 5.0924 Inserted the words "For the purposes of this section"